

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**953 WRIT PETITION NO.1374 OF 2022**

SARDAR MANJEET SINGH JAGAN SINGH  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Ganesh A Gadhe  
AGP for Respondent Nos. 1 & 2: Mr. A.R. Kale  
Advocate for Respondent No. 4 : Mr. D.R. Deshmukh  
Advocate for Respondent Nos. 5 and 8 : Mr. Rajendra S. Deshmukh  
Advocate for Respondent Nos. 6 and 7 : Mr. Bhosale  
Senior Advocate i/by Mr. Devang R. Deshmukh

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**CORAM : S. V. GANGAPURWALA AND  
S. G. DIGE, JJ.**

**DATE : 10<sup>th</sup> MARCH, 2022**

**PER COURT :-**

1. The petitioner assails the notification dated 20-01-2022 nominating present respondent Nos. 5 and 8 as members of Nanded Sikh Gurudwara Sachkhand Shri Hazur Apchalnagar Sahib Board from Sachkhand Hazuri Khalsa Diwan Nanded.

2. We have heard Mr. Gadhe learned Advocate for the petitioner, the learned AGP for respondent Nos. 1 and 2, Mr. Deshmukh, learned Senior Advocate for respondent Nos. 5 and 8 and Mr. Bhosale learned advocate for respondent No. 6 and 7. Mr. Bhosale, learned Advocate adopted the arguments of Mr. Gadhe.

3. The Nanded Sikh Gurudwara Sachkhand Shree Hazur Apchalnagar Sahib Board (Hereinafter referred as to the "Gurudwara Board") is constituted under the Nanded Sikh Gurudwara Sachkand Shri Hazur Apchalnagar Sahib Act, 1956. Section 6 of the Act, 1956 prescribes the details of constitution of the Board. The same reads as

thus:

The Nanded Sikh Gurudwara Sachkahn Shri Hazur Apchalnagar Sahib Act, 1956.

(1) ...

(2) ...

(6) (1) The board Shall consist of :

(i) Two members nominated by the Government.

(ii) There members nominated by the Government from the Sikhs of the State.

Provided that after the expiration of the first term of the Board these three members shall be elected from among the Sikhs of the State in such manner as may be prescribed.

(iii) One member nominated by the Government from among the Sikhs of the cities of Hyderabad and Secunderabad.

(iv) One member nominated by the Shiromani Gurudwara Prabandhak Committee from among the Sikhs of the State of Madhya Pradesh;

(v) Three members nominated by the Shirmoani Gurudwara Prabandhak Committee;

(vi) Two members elected by and from among the sikh members of the parliament;

(vii) One member nominated by the Chief Khals Diwan of Amritsar;

(viii) Four members nominated by the Suchkhand Hazur Khalsa Diwan, Nanded.

(2) The nomination and election of members under this section shall be made in such manner and within such period as may be prescribed.

(3) i) If the members mentioned in clauses (iv) to (vii) (both inclusive) of sub-section (1) are not nominated or elected, as the case may be within the prescribed period, the Government shall specify such further period as it may deem fit within which such members shall be nominated or elected if such members are not nominated or elected within the further period so specified the Government shall nominate a person or persons to fill the vacancy or vacancies as the case may be and the person or persons so nominated shall be deemed to be a member or members duly nominated or elected by the respective body.

(ii) The term of office of a member nominated under clause (I) shall expire at the time at which it would have expired if he had been nominated or elected: as the case may be within the period prescribed under sub-section (2).

(4) After the members have been nominated or elected, as the case may be, in accordance with the forgoing provisions the Government shall notify the fact of the Board having been duly constituted ; and the date of the publication of the notification shall be deemed to be the date of constitution of the Board.

4. The matter of debate in the present petition is the nominations of four members by Sachkhand Hazuri Khalsa Diwan, Nanded (for short “Diwan” under Section 6(1)(viii) of the Act, 1956. Diwan is registered under the Hyderabad Registration of Societies Act, 1350 Fasli. It is also a trust.

5. Diwan is entitled to nominate four members on the Gurudwara Board. The term of the office of the members is for three years from the date of constitution or until the constitution of the new board whichever is later. In the present matter, the dispute is about four members nominated by the Diwan Nanded.

6. Initially, on 21-06-2019 notification was issued under Section 6(1) (viii) appointing four persons from Diwan on the Gurudwara Board. The same was challenged by the present petitioner by filing writ petition No. 9537 of 2021. This Court under Judgment and order dated 30<sup>th</sup> April, 2020 quashed and set aside the nomination of four persons. The said Judgment was assailed before the Apex Court. The Apex Court under judgment and order dated 20<sup>th</sup> August, 2020 confirmed the judgment of this Court and held that Diwan signifies the entire body of members and they would be entitled to select members through nominations on the Gurudwara. Under said judgment, the Apex Court observed that Assistant Charity Commissioner is entrusted with the authority to determine the members borne on the role of members of the Diwan, who are entitled to vote at the ensuing meeting in accordance with the directions as was given by the Apex Court. Assistant Charity Commissioner passed the order that only names of the persons appearing in the change report submitted by the Executive Committee would be entitled to vote. This order was subject matter of challenge in writ petitions filed by the various parties. The same went upto the Apex Court. The Apex Court passed order that in the event that a meeting is held in pursuance of the directions of the Assistant Charity Commissioner and the nomination is made, it is left open to the petitioners to pursue their remedies in accordance with law. The meeting was conducted for nominating four members of Diwan on the Board. Pursuant to the order of the Assistant Charity Commissioner

dated 28-10-2020 only about 49 members were allowed to participate in the meeting and nominate the members on the Gurudwara Board.

7. According to learned advocate for the petitioner, there are almost 600 valid members but those were not allowed to participate in the meeting, in view of the order of Assistant Charity Commissioner. According to learned Senior Advocate of the nominated candidates valid members of Diwan are more than 300 to 325.

8. The learned counsel for the petitioner and learned Senior Advocate for nominated candidates are at *ad-idem* that valid members of Diwan are much more than permitted by the Assistant Charity Commissioner.

9. It was expected of the learned Assistant Charity Commissioner to conduct the enquiry and determine the members whose membership is undisputed by any of the party.

10. In view of the fact that the learned Assistant Charity Commissioner did not *prima facie* conclude as to number of valid members of Diwan and also the fact that the learned counsel for petitioner and learned Senior Advocate for respondents whose nominations are under challenge are *id-idem* that valid members of the Diwan are much more than permitted by the Assistant Charity Commissioner, we are constrained to hold that meeting of Diwan is not conducted as per the directions of the Apex Court in SLP (Civil Appeal) Nos. 2964, 2965, and 2966 of 2020 dated 20-08-2020.

11. In light of the above, the impugned notification is quashed and set aside.

12 The Assistant Charity Commissioner shall scrupulously follow the

directions given by the Apex Court in the order dated August, 20, 2020 in the aforesaid civil Appeals more particularly in Paragraph No. 32. The Assistant Charity Commissioner shall fix the date for meeting of the Diwan and shall act as an Observer at the meeting convened for finalizing the nominations. The Assistant Charity Commissioner shall prepare the list of the persons whose membership is not disputed and shall permit those persons to participate in the meeting convened for finalizing the nomination. The said exercise shall be made within a period of two months and meeting shall be convened for finalization of nominations preferably within a period of three months.

13 Writ petition is disposed of. No costs.

**( S.G. DIGE )**  
**JUDGE**

**( S.V. GANGAPURWALA )**  
**JUDGE**

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